

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the tariff filings by Verizon – New England, Inc., d/b/a Verizon – Massachusetts

DTE 98-57, Phase III

**REPLY BRIEF OF AT&T**

On December 18, 2001, AT&T, Covad and Verizon filed initial briefs regarding Verizon's "Illustrative Tariff for Packet at the Remote Terminal Service (PARTS) with Option for CLEC Provided Line Cards" which Verizon had filed on March 12, 2001. In those briefs, AT&T and Covad pointed out that it was important for the Department to act quickly to establish the terms and conditions under which both PARTS and Plug & Play will be offered in Massachusetts in order to ensure competition in the advanced services market. Verizon, on the other hand, chose to ignore these issues and instead make a series of irrelevant legal arguments and unsupportable factual claims. In this reply brief, AT&T will respond to Verizon's invalid arguments and clarify the issues in dispute.

**Argument.**

**I. VERIZON'S LEGAL ARGUMENTS ARE IRRELEVANT BECAUSE AT&T AND COVAD ARE NOT SEEKING IMMEDIATE PARTS OR PLUG & PLAY ACCESS.**

Verizon spends the majority of its initial brief arguing that the Department cannot require Verizon to offer PARTS or Plug and Play at this time because neither Verizon nor any affiliates have begun to utilize similar offerings to provide services to their own customers. *See* VZ Initial Brief at 8-25. This argument, however, demonstrates that Verizon has either wholly misconstrued the purpose of the present proceedings or is

intentionally trying to distract the Department and hinder competition in Massachusetts. As AT&T made clear in its Initial Brief, AT&T and Covad are not asking the Department to require Verizon to make PARTS or Plug & Play available today, they are merely asking that the Department establish a regulatory framework which will allow CLECs to have access to PARTS or Plug & Play at the very same instant that Verizon or any affiliates begin providing similar services to their own customers.

Verizon primary argument is that it cannot be compelled to offer PARTS or Plug and Play because the four conditions set forth in 47 CFR 51.319(c)(5) have not been met. Verizon's argument, however, is invalid and irrelevant to the present circumstances. As AT&T noted in its initial brief, there has never been any serious dispute that, in the instances where a CLEC would be requesting either PARTS or Plug and Play, the first two of the conditions would be met. *See* AT&T Initial Brief at 5; *see also* Ex. VZ-MA 10, VZ Direct at 13; Ex. VZ-MA 11, VZ Rebuttal at 2-5. Verizon claims, however, that the third and fourth conditions have not been met.

As to the third condition, Verizon seems to be arguing that because it has tariffed a House and Riser and unbundled copper distribution sub-loop offering, the third condition has not been met. *See* VZ Initial Brief at 17-19. However, as AT&T pointed out in its Initial Brief, it is irrelevant whether or not Verizon has *tariffed* these offerings. *See* AT&T Initial Brief at 6. What is relevant is the fact that, by Verizon's own admission, these offerings are not available at every RT. *See* Tr. at pp. 939-942. Verizon conceded the relevancy of this point in its own brief when it admitted that the determination of whether the four conditions have been met must be made on the basis of a "*case-by-case analysis*." VZ Initial Brief at 16 (emphasis in original). Thus, at those

RTs where CLECs do not have other effective means of providing advanced services to end users served by fiber, the third condition is met and Verizon is required by law to provide “nondiscriminatory access to unbundled packet switching capability.” 47 CFR 51.319(c)(5).

Regarding the fourth condition, as demonstrated in AT&T’s Initial Brief, Verizon’s argument is a mere smokescreen that should be ignored. *See* AT&T Initial Brief at 5-6. AT&T and Covad are not requesting that the Department require Verizon to provide PARTS or Plug and Play today, only that the Department require Verizon to provide those options so that Verizon’s competitors can offer DSL services at the very same moment that Verizon or its affiliate begins to offer similar services to its own customers. Therefore, Verizon’s argument that it is not currently offering such services is irrelevant.

**II. CONTRARY TO VERIZON’S ARGUMENT, CLEC PROVIDED LINE CARDS ARE PRACTICAL, TECHNICALLY FEASIBLE AND WILL PROVIDE SUBSTANTIAL BENEFITS TO MASSACHUSETTS CONSUMERS.**

In its initial brief, Verizon claims that the Plug & Play option proposed by Covad “is an impractical and technically infeasible alternative.” *See* VZ Initial Brief at 26. At times, Verizon has even referred to Covad’s Plug & Play proposal as “PARTS minus.” In reality, however, Plug & Play is practical, feasible and will provide substantial benefits to Massachusetts consumers through the kind of competition which Verizon is hoping to avoid.

The record in this proceeding demonstrates that Verizon’s network infrastructure *can* support both PARTS and Plug and Play. Verizon has already begun to deploy Litespan 2000, a next generation digital loop carrier (“NGDLC”) developed by Alcatel.

*See* Ex. CVD-1, Covad Direct at 16; Ex. VZ-MA 11, VZ Rebuttal at 15-16. Litespan 2000 is designed to support DSL over IDLC and Verizon has admitted that it is “pre-configuring” all new NGDLC RTs so that the RTs will be compatible with a future potential PARTS offering. *See id.* Verizon has also admitted that, on a going forward basis, it will only be installing new RTs that use NGDLC and support DSL over DLC. *See* Tr. at pp. 912-913. Thus, it is undisputed that Verizon has the technical ability to provide PARTS already at some RTs and that this ability will be expanding to more RTs as Verizon continues to install Litespan 2000 or similar products in its RTs. Additionally, AT&T and Covad are merely requesting that Verizon be required to provide PARTS and Plug and Play in these new NGDLC RTs. Thus, Verizon’s argument that it does not have the network infrastructure to support PARTS and Plug and Play is unsubstantiated.

Furthermore, Plug and Play will benefit Massachusetts consumers by offering them greater choice and by encouraging innovation. Plug & Play will allow CLECs to differentiate their services and products from those of Verizon and to offer a higher quality of DSL service than offered by Verizon. *See* Ex. CVD-1, Covad Direct at 13. Conversely, if Plug and Play is not offered, Verizon will be the sole arbiter of what types of line cards and what level of service will be provided in Massachusetts. Under such a scenario, Verizon would have no incentive to innovate and Massachusetts consumers would suffer.

Thus, Plug and Play will provide substantial benefits to Massachusetts consumers without inefficiencies or substantial logistical hurdles. In order to encourage competition and innovation, it is important for the Department to adopt a Plug and Play option under

which CLECs own the line cards. In turn, this competition and innovation will benefit Massachusetts DSL consumers.

### **III. PARTS AND PLUG AND PLAY ARE UNES AND MUST BE TARIFFED AS SUCH.**

As AT&T noted in its Initial Brief, in addition to determining that Verizon should be required to Tariff a PARTS option and a Plug and Play option, the Department should determine that such offerings will be tarified as a UNE and made available based on TELRIC pricing. Verizon has made it clear that it will not offer PARTS or Plug and Play until all four of the conditions set forth in 47 CFR 51.319(c)(5) are met. As AT&T noted in its Initial Brief, once those four conditions are met, Verizon must offer access to these options as a UNE. The terms of 47 CFR 51.319 allow no other conclusion. Therefore, the Department should decide that TELRIC pricing will apply to Verizon's PARTS and Plug & Play offerings.

### **Conclusion.**

For the reasons set forth above and in the initial briefs of AT&T and Covad, AT&T respectfully requests that the Department adopt Covad's Plug and Play proposal. Additionally, AT&T requests that the Department establish a procedure that will allow all parties to quickly determine the remote terminals at which Verizon will be required to offer both PARTS and Plug and Play once Verizon or its affiliate begins deploying technology that would allow Plug and Play or deploys the infrastructure to support wholesale packet transport services.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the above document to be served upon the attorney of record for each other party by mail on January 8, 2002.

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